

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

TERESITA FIGUEROA.

Complainant,

and

**ACT II JEWELRY, LLC
d/b/a LIA SOPHIA.**

Respondent.

Charge No.: 2008CF1019

EEOC No.: 21BA80172

ALS No.: 08-0342

Judge Gertrude L. McCarthy

RECOMMENDED ORDER AND DECISION

On August 12, 2008, the Illinois Department of Human Rights (Department) filed a *Complaint of Civil Rights Violation* on behalf of Complainant. The complaint alleged discrimination based on ancestry in violation of the Illinois Human Rights Act (Act).

On January 27, 2009, Respondent filed its *Motion to Dismiss for Complainant's Failure to Prosecute*.

The Department is an additional statutory agency that has issued state actions in this matter. The Department is therefore named as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. On August 12, 2008, the Department filed a *Complainant of Civil Rights Violation* on behalf of Complainant alleging discrimination based on ancestry in violation of the Act.
2. On August 13, 2008, the Commission sent a *Notice of Public Hearing* to Complainant at the address of record 2826 N. Derrough, 1st Floor, Melrose Park, IL. That notice scheduled a hearing for October 15 2009.
3. The Commission received proof of receipt by Complainant of the August 13,

3. The Commission received proof of receipt by Complainant of the August 13, 2008 mailing.

4. Complainant failed to appear for scheduled status dates on October 15, 2008 and January 14, 2009.

4. On January 27, 2009, Respondent filed its *Motion to Dismiss for Complainant's Failure to Prosecute*.

5. Complainant did not respond to the pending motion.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute her case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute her case, this matter should be dismissed.

DISCUSSION

On August 12, 2008, the Department filed a *Complaint of Civil Rights Violation* alleging discrimination based on ancestry in violation of the Act.

Complainant failed to appear for status dates on October 15, 2008 and January 14, 2009.

On January 27, 2009, Respondent filed its *Motion to Dismiss for Complainant's Failure to Prosecute*.

Complainant failed to appear for a status date on February 11, 2009.

Respondent filed *Certificates of Service* to the Commission. Those certificates showed notice to Complainant of the orders of October 15, 2008, January 14, 2009 and February 11, 2009. The notice to Complainant of the February 11, 2009 order was returned as "unclaimed".

The Complainant has not filed a response to the pending motion.

Complainant has done nothing to ensure that her complaint is heard.

Complainant's actions, therefore have unreasonably delayed the proceedings in this matter.

It is a fundamental principle governing practice before the Commission that it is the singular responsibility of complainants to diligently pursue the disposition of their cases once they are docketed with the Commission. See *Johnson and Valley Green Management Co.*, IHRC, 11469, July 25, 2002.

The Commission routinely dismisses abandoned claims. See e.g. *Leonard and Solid Matter, Inc.*, IHRC, 4942, August 25, 1992. Additionally, the Commission has dismissed cases where Complainant has failed to appear before the Commission on dates scheduled for hearing or status. See, e.g. *Stewart and SBC Midwest*, IHRC, 04-227, March 22, 2006, and *Jackson and Chicago Firefighters Union Local No. 2*, IHRC, 8193, September 29, 1997. In light of those precedents, this case should be dismissed.

RECOMMENDATION

Based upon the foregoing, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
GERTRUDE L. MCCARTHY
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 10, 2009